

Serial No.: 10/722,574
Atty. Docket No.: P66852US3

REMARKS

The Final Office Action mailed April 9, 2007, has been carefully reviewed and, by this Amendment, claims 1, 14 and 19 have been amended. Claims 1-20 are pending. Claims 1 and 19 are independent. Claims 2-5 and 7-11 are withdrawn.

The Examiner rejected claim 14 as containing informalities which Applicants have corrected herein.

The Examiner rejected claims 1, 6, 12, 13 and 18-20 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,634,498 to Kayeød et al. ("Kayeød"). The Examiner also rejected claims 1, 13 and 16-19 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,863,287 to Segawa.

As clarified in amended claims 1 and 19, the present invention is directed to a kit for preparing a urinary catheter for draining a human bladder. The kit includes a first proximal catheter section and a second distal catheter section which are arranged in a coextending fashion and define a longitudinally extending passage therein. When the kit is configured for storage, a tubular protective member surrounds/covers the first catheter section, but the second catheter section is *not covered* (see Figures 12 and 13; and page 13, lines 20-21). This is not disclosed or suggested in the prior art.

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Before discussing the prior art, Applicants wish to note that the amendments set forth herein are presented to clarify an apparent ambiguity in the claim language previously used in which the second catheter section was claimed as "being uncovered" in the storage configuration. Applicants intended this phrase to describe the static state of the kit when in the storage configuration. However, the Examiner's discussion of Kayerød suggests that the Examiner has interpreted this phrase as a present action or process by which the covering on an otherwise covered component is removed. Such an uncovering process is not what Applicants intended to claim with the phrase "being uncovered". Rather, Applicants meant by the subject phrase that the second catheter section, when in the storage configuration, is "not covered" by the tubular protective member (see the specification on page 13, line 21). This is clearly not shown by Kayerød.

Kayerød discloses a urinary catheter assembly with a catheter having a tube 2 and an outlet member 5 arranged in a package 7. The package can be divided into two tubular parts 17 and 19, joined by a fracture defining segment 20. The first tubular part defines a cavity 18 for the catheter tube 2 and the second tubular part 19 contains a spongy body 14 for confining a liquid swelling medium (see column 5, lines 40-61). In the embodiments

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shown in Figures 1-6, the liquid swelling medium is in direct liquid communication with the cavity (column 6, lines 7-9). Hence, in a storage configuration of the catheter assembly according to Kayerød, all of the catheter 1 is fully covered by the package 7 and, in view of the structure as disclosed, *must be* fully covered. Therefore, Kayerød does not anticipate or suggest the present invention.

Segawa also does not anticipate the present invention as Segawa is directed to an entirely different art field. By the amendments set forth herein, Applicants have specified in claims 1 and 19 that the first and second catheter sections are configured to receive a flow of urine through both sections (see page 13, lines 6-9). The rod of Segawa both does not disclose catheter sections, but clearly does not disclose catheter sections having this urine flow-through configuration.

For at least the foregoing reasons, claims 1 and 19 are patentable over the prior art. Claims 2-18 and 20 are also in condition for allowance as claims properly dependent on an allowable base claim. Entry of the foregoing amendments and allowance of the application is requested.

The Examiner also provisionally rejected claims 1, 6 and 12-20 on the ground of non-statutory obviousness-type double

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patenting as being unpatentable over claims 1-26 and 54-65 of copending Application No. 10/184,081 or claims 1-21 of copending Application No. 10/537,014. Because the conflicting claims have not been patented, the rejection is provisional only. Accordingly, Applicants request deferral of the requirement for further response in connection with this obviousness-type double patenting issue until patentable subject matter has in fact been identified in at least one of the subject applications.

With the foregoing amendments and remarks, the application is in condition for allowance. Should the Examiner have any questions or comments, the Examiner is cordially invited to telephone the undersigned attorney so that the present application can receive an early Notice of Allowance.

Respectfully submitted,

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